IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 641 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SURYABEN RAMESHJI THAKOR - Applicant(s)
Versus
STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :
MR RJ GOSWAMI for Applicant(s) : 1,
MR MENGDEY, ADDL PUBLIC PROSECUTOR for Respondent(s) : 1,
None for Respondent(s) : 2,
NOTICE SERVED BY DS for Respondent(s) : 3 - 5.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 12/07/2007

ORAL JUDGMENT

Rule. Shri Mengdey, learned APP waives service of rule on behalf of the respondent State.

2. By way of this petition under Article 226 of the Constitution of India, the petitioner, original complainant/informant has prayed for an appropriate order directing the respondents, more particularly, Police Inspector, Deesa Rural Police Station/ DSP, Banaskantha at Palanpur to register the complaint as FIR and to investigate the same.

3. Shri Goswami, learned advocate appearing on behalf of the petitioner has submitted that though the petitioner has already filed the complaint on 9-3-2007 with the Police Inspector, Deesa Rural Police Station pointing out the commission of the cognizable offence under the IPC with the name of the suspected accused, still the said complaint is not registered as FIR and the investigation is not carried out. It is submitted that thus, the police officers of the concerned police station i.e. Deesa Rural Police Station has failed to perform its duty as required u/s 154 of Criminal Procedure Code. He has also further submitted that thereafter, the petitioner has also approached the DSP, Banaskantha at Palanpur but still the complaint is not registered as FIR.

4. Shri Mengdey, ld. APP has submitted that some inquiry on the basis of the said complaint dated 9-3-2007 has been held. However, the fact remains that the complaint dated 9-3-07 is not registered as FIR and is not investigated. As per the judgment of the Hon'ble Supreme Court in case of ***Parkash Singh Badal & Another V/s. State of Punjab & Others*** reported in **(2007) 1 SCC 1,** it is the bounden duty of the police officers of the concerned police station to register

the complaint as FIR having received the information in writing and/or orally pointing out that the cognizable offence under the IPC has taken place and thereafter the concerned police officer is required to initiate the investigation. Before registering the complaint as FIR, the police officer is not required to go into the genuineness or correctness of the averments made in the complaint. Under the circumstances, the Police Inspector, Deesa Rural Police Station is directed to register the complaint dated 9-3-2007 (Annexure A to the petition) as FIR and is directed to investigate the said complaint immediately. Rule made absolute. DS permitted.

(M.R. Shah, J.)

shekhar/-